

## **RECORD OF PROCEEDINGS**

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### **MINUTES OF THE BOARD OF WATER COMMISSIONERS**

**Open Session**

**April 13, 2005**

A duly called Regular Meeting of the Board of Water Commissioners was held Wednesday, April 13, 2005, 2005 beginning at 9:22 a.m. in the Board Room, Room 309, 1600 West 12<sup>th</sup> Avenue, Denver, Colorado. Members of the Board present during the Regular Meeting were:

**William R. Roberts, President**  
**George B. Beardsley, First Vice President**  
**Richard A. Kirk, Vice President**  
**Thomas A. Gougeon, Vice President<sup>1</sup>**

Board employees and others present during portions of the Meeting were:

H. J. Barry, Manager  
P. L. Wells, General Counsel  
D. B. LaFrance, Director of Finance  
E. E. Pokorney, Director of Planning  
M. L. Bassett, Director of Public Affairs  
B. Good, Director of Operations and Maintenance  
J. L. Diebel, Director of Engineering  
A. T. Spaulding, Manager of Purchasing  
S. Duncan, Intergovernmental Affairs Coordinator  
K. Kempke, Manager of Treasury Operations  
S. Renouf, Community Affairs Specialist  
C. R. Dermody, Manager of Information Technology  
M. L. Walker, Attorney  
J. H. Bambei, Jr., Chief of Engineering  
J. H. Weldon, Engineer  
D. L. Little, Manager of Water Resource Planning  
G. Fisher, Chief Planner  
R. Olson, Assistant Supervisor of Treated Water Operations  
J. E. Crockett, Manager of Risk & Benefit

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<sup>1</sup> Due to an unavoidable conflict, Commissioner Gougeon was delayed in arriving. Commissioner Gougeon participated in the consideration of Agenda Item V-C-1, which was postponed from its normal place in the Agenda.

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H. C. Teigen, Chief of Distribution and Property Management  
J. Kelley, Manager of Safety and Security  
E. V. Gardener, Manager of Water Conservation  
T. L. McGuire-Collier, Manager of Media Relations  
L. Firth, Manager of Community Relations  
K. D. Kuykendoll, Manager of Rate Administration  
P. O'Malley, Engineering Specialist  
K. Urie, Planner  
C. Piper, Water Resource Engineer  
R. G. Steger, Water Resource Engineer  
M. D. Waage, Water Resource Engineer  
T. Chavez, Community Affairs Specialist  
L. Billeter, Staff Analyst  
M. McAllister, Community Relations  
Dave Romero, Denver Parks and Recreation  
Pat Fitzgerald, Platte Canyon Water and Sanitation District and  
Southwest Metropolitan Water and Sanitation District  
Walt Pettit, Wheat Ridge Water  
and Sanitation District  
Beth Conover, Mayor's Office  
Gail Rowe, Professional Security, LLC  
Brenda O'Brian, GREENCO  
Phyllis Thomas, Consultant  
Deb Pilon, Willows Water District  
Kim Linton, AWWA Research Foundation  
Kelly Thornton, Scien-Turfic  
Brian TerHark, Bungalows at Green Valley Ranch Homeowners  
Association  
David Wilson, Bungalows at Green Valley Ranch Homeowners  
Association

#### Media

Jerd Smith, Rocky Mountain News  
Kim McGuire, Denver Post  
Bryon Reed, Photographer, KUSA Channel 9

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Sean McLaughlin, AWWA film crew  
Steve Varnhisel, AWWA film crew

Commissioner Roberts called the meeting to order.

Upon motion regularly made, seconded and unanimously carried, Commissioner Maes was found to be absent for substantial cause and was excused.

Upon motion regularly made, seconded and unanimously carried, the reading of the Minutes of the Regular Meeting of March 9, 2005 was dispensed with and such Minutes were approved.

Upon motion regularly made, seconded and unanimously carried, the Minutes of the Executive Session of March 9, 2005 were approved.

Upon motion made, seconded and unanimously carried, the Minutes of the Executive Session of March 23, 2005 were approved.

#### **PUBLIC COMMENT**

Brian TerHark representing the Homeowner's Association Bungalows at Green Valley Ranch addressed the Commissioners concerning surcharges the association received for 2004 water use. Mr. TerHark explained the association is responsible for 34 irrigation accounts. Mr. TerHark met with Denver Water staff and a portion of the surcharge was waived. The association reduced its usage from 2003 to 2004 by 5% but the 2004 surcharge was greater than the 2003 surcharge. Mr. TerHark asked the Board to waive an additional \$3,500 of the surcharge on the basis that there had been a water savings from 2003 to 2004.

Ms. Basset explained that some of the accounts were new and had no prior history with which to compare. An average irrigation usage for 2004 was calculated based on usage of a similar sized tap in 2001.

The Commissioners asked that the association continue to work with Denver Water staff to see whether a resolution was possible. Ms. Bassett explained that Denver Water would provide its recommendation to the Commissioners after meeting with the homeowner's association representatives.

Upon motion regularly made, seconded and unanimously carried by the

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Commissioners then present, unless otherwise noted, the Board acted upon the following agenda items:

1. **ITEM V-B-1: APPROVAL OF WATER SERVICE AGREEMENT FOR THE SOUTHWEST METROPOLITAN WATER AND SANITATION DISTRICT**  
Approved termination of the October 13, 1981 contract with Southwest Metropolitan Water and Sanitation District, Read and Bill Contract No. 163, and replacement with the new form Water Service Agreement (Read and Bill) in the form attached to and incorporated in these Minutes as Exhibit "A."

Ms. Wells explained that a new form water service contract had been created in order to better define the water supply needed for build out of the Combined Service Area. Some of the changes in the provisions between the old and new form contract were explained. Ms. Wells explained there are still districts with old form contracts, and Denver Water staff continues to work with those entities to address their individual concerns.

Pat Fitzgerald, Manager of the Southwest Metropolitan Water and Sanitation District thanked the Board and Staff for continuing the 40 year relationship. Mr. Fitzgerald explained the District had not signed the new form of agreement at an earlier time because of concerns regarding the rate language and the District's intention to provide a water supply to expanded boundaries. After reviewing the water supply options available, the District determined that it would not be willing to take on the obligation of developing additional water supplies to meet demands of new customers and would instead agree to limit its service area as provided in the new form contract.

2. **ITEM V-C-1: RESOLUTION TO UPDATE MANAGER'S SPENDING AUTHORITY**  
At the request of Commissioner Roberts, discussion regarding Agenda Item V-C-1 was delayed pending the arrival of Commissioner Gougeon.
3. **ITEM V-C-2: RATE ADJUSTMENTS FOR THE BOARD'S CARRIER FACILITIES**  
Authorized changes to the 2005 rates for the City Ditch and Harriman Lake carrier facilities as are set forth below:

**Proposed**

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Ditch Name	Units	2004 Rate	2005 Rate	Change
City Ditch	Inch Right	\$573.87	\$582.67	2%
Harriman Lake	Inch Right	24.78	31.02	25%

Mr. LaFrance explained an analysis of the Board's carrier facilities is undertaken each year, and the rates are modified when the return related to the investment in each facility under-recovers the facility's operation costs. While the City Ditch and Harriman Lake are increasing for 2005, the High Line Canal, Antero, and Farmer's and Gardener's Ditch rates will not change.

4. **ITEM V-D-1: CONTRACT FOR WEST BELLEVIEW RESERVOIR AND PUMP STATION LANDSCAPE AND IRRIGATION RENOVATIONS**

Authorized award of a contract to Arrow J Landscape and Design Inc. for the West Belleview Reservoir and Pump Station landscape and irrigation renovation at a cost to the Board not to exceed \$92,706.15.

5. **ITEM V-D-2: AGREEMENT TO PROVIDE TECHNICAL DRAFTING ASSISTANCE**

Authorized entering into an agreement with Martinez and Hromada Associates, Inc. to provide technical drafting assistance for the period May 1, 2005 through November 30, 2005, at a cost to the Board not to exceed \$150,000, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "B."

Mr. O'Malley explained steps necessary to modify the Denver Water facility maps. Because of the large number of construction projects incorporating facilities into the system, during the last several years improvements made to the water system have not been included in the Board's GIS database. The contract will provide assistance in updating approximately 1300 drawings necessary for the GIS database. Denver Water staff is staying current, but cannot accomplish the drafting needed to eliminate the backlog.

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6. **ITEM V-D-3: PAYMENT FOR WATER DEPLETIONS TO THE UPPER COLORADO RIVER BASIN**

Authorized payment to the National Fish and Wildlife Foundation in the amount of \$77,167.57, as required under Article 411 of the Gross Reservoir Hydroelectric Project license.

Mr. Urie reported the payment is to be made to the Upper Colorado Fish Recovery Program under the terms of the FERC license for Gross Reservoir. The payment provides an offset for the impact of the licensed project on endangered fishes in the Colorado River as a result of the full use of the Moffat Collection System after the licensed project comes on line.

Ms. Wells explained that any federal action requires a Section 7 consultation with the Fish and Wildlife Service. The Colorado River Recovery program which has been in place for seven years serves as a reasonable and prudent alternative to individual consultations. In response to questions from the Commissioners, Mr. Bambei reported that the purchase of the generator was the trigger for "start of construction."

7. **ITEM V-D-4: RATIFICATION OF CONSTRUCTION CONTRACT CHANGE ORDERS**

Ratified Change Orders to Construction Contracts authorized by the Manager in February and March 2005 as follows: Change Order No. 2 to the contract with Blazer Waterproofing Systems, Inc. for concrete repair at the Marston Treatment Plant Filter Building No.1; Change Order No. 2 to the contract with Genesee Builders for the Foothills Treatment Sedimentation Basin Weir Replacement; and Change Order No. 1 to the contract with Westland Construction Inc. to furnish and install lime slurry storage at the Moffat Treatment Plant, all as more particularly described in agenda item V-D-4 dated April 13, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "C."

8. **ITEM V-D-5: AMENDMENT TO CONTRACT WITH LANGHAM CONSULTING SERVICES, INC.**

Authorized the Second Amendment to Agreement with Langham Consulting Services Inc., further modifying the June 26, 2004 agreement between the parties to increase the compensation under the agreement by \$12,000.00, to an amount not to exceed \$50,000.00, and to extend the completion date to

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May 31, 2005, all as more particularly described in the Second Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "D."

9. **ITEM V-D-6: RATIFICATION OF PURCHASE OF PERMALOG LEAK NOISE LOGGERS**

Ratified the Purchase from Fluid Conservations Systems of 250 Permalog Leak Noise Detectors for a total contract amount not to exceed \$100,350.00.

During the discussion regarding the purchase of Permalog Leak Noise Loggers, Commissioner Roberts opined that reducing distribution system leaks would make additional water available for use and would also provide a positive impact to the Board's water conservation program. Mr. Olsen explained the manufacturer and Denver Water had made permanent installations of the Permalog devices in a test area generally bounded by 32<sup>nd</sup> Avenue and I-70, Federal Boulevard and I-25. Modifications needed to be made to the devices, and they now seem to be operating. Mr. Good explained that the Denver Water system has not historically experienced the number of leaks that other water systems using the Permalog devices have, but that Denver Water will continue to investigate the installation of the devices in appropriate areas of the system.

10. **ITEM V-D-7: PURCHASE OF VEHICLES**

Authorized the purchase of one John Deere tractor Model 6420, with loader and rotary cutter, and one John Deere tractor Model 5525, with rotary cutter and side-mount sickle mower from Bi-State Machinery Company, under the State Multiple Assembly of Procurement Officials contract, for a total net contract amount after trade-in of \$126,192.44.

11. **ITEM V-D-8: AMENDMENT TO CONTRACT FOR ARMED GUARD SECURITY SERVICES**

Authorized Amendment to the January 5, 2005 agreement with Professional Security, LLC to provide armed guard security services at the Moffat Treatment Plant, through January 31, 2008, for an additional \$1,514,880.00, and a total amended contract amount not to exceed \$2,303,280.00.

Mr. Good explained that after the Board discussion of January 5, Professional Security offered to furnish guard services for the Moffat Treatment Plant beginning May 1, 2005, at \$30.00 per hour. Use of Professional Security

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would allow Denver Water to do away with the service contract of the Lakewood Police Department. Additionally, Denver Police Department has lowered its price to \$30.00 per hour for furnishing officers for the Marston Treatment Plant and the Administration Building.

12. **ITEM V-D-9: MEMORANDUM OF UNDERSTANDING REGARDING DENVER WATER CORPS**

Approved entering into a Memorandum of Understanding with the City and County of Denver regarding the Denver Water Corps, a youth water conservation program pilot project developed by the Department of Parks and Recreation and the Office of Workforce Development, at a cost to the Board not to exceed \$80,000.00, such funds to come from the interest on the Land Sales Fund, all as more particularly described in the Memorandum of Understanding, a copy of which is attached to and incorporated in these Minutes as Exhibit "E."

Mr. Barry introduced Beth Conover of the Mayor's Office who explained that the City proposes to complete landscaping renovations to promote the use of Xeriscaping practices at four City facilities: Highland Senior Center, Montbello Recreation Center, Harvey Park Recreation Center, and Denver Civic Center Park. The program is intended to create an employment/training opportunity, and to promote water conservation education. The City will provide grants from other entities in order to meet the expected budget of \$175,000.00. Ms. Conover thanked the Board for working with the Mayor's Office and the Department of Parks and Recreation to fund the necessary project. In response to questions from the Commissioners, Mr. LaFrance explained interest income from the Land Sales Fund will be used to meet the Board's costs under the Memorandum of Understanding.

13. **ITEM V-D-10: SUPPORT AND SUBSCRIPTION SERVICES FOR AUTOCAD SOFTWARE**

Approved an Agreement with DLT Solutions to provide AutoCad software licenses and support for the period April 8, 2005 to April 7, 2006, at a cost not to exceed \$52,000.00

14. **ITEM V-D-11: PURCHASE AND SALE AGREEMENT WITH SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT FOR PROPERTY OWNED BY MARVIN JUHL, RAYMOND JUHL AND BETTY JUHL**



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Authorized entering into a Purchase and Sale Agreement with South Adams County Water and Sanitation District and Marvin L. Juhl, Raymond J. Juhl and Betty R. Juhl to purchase a 16.313 acre parcel in Adams County at a cost of \$275,000.00, which property will be used in conjunction with adjacent property previously acquired for the downstream reservoir project, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "F."

Mr. Walker and Mr. Bambei provided a brief update for the Commissioners and the public of the downstream reservoir project, including the locations of the various reservoirs, the status of construction of the necessary facilities to use the reservoirs, and some of the highlights regarding the project.

15. **ITEM V-D-12: CHANGE ORDER NO. 4 MARSTON FINISHED WATER PIPE IMPROVEMENT PROJECT**

Authorized Change Order Number 4 to the March 24, 2004 contract with Lillard and Clark Construction Company, Inc. for the Marston Treatment Plant finished water pipe improvement project in the amount of \$82,841.00, including changes to the completion dates of various facilities, all as more particularly described in Change Order Number 4, a copy of which is attached to and incorporated in these Minutes as Exhibit "G."

16. **ITEM V-D-13: AMERICAN WATER WORKS ASSOCIATION RESEARCH FOUNDATION (AWWARF) SUBSCRIPTION**

Approved contribution of \$50,000.00 as the 2004 subscription payment of Denver Water to the American Waterworks Association Research Foundation.

17. **ITEM V-E-1: HUMAN RESOURCE CHANGES**

Approved the human resource changes set forth in Agenda Item V-E-1 dated April 13, 2005, a copy of which is attached to and incorporated in these minutes as Exhibit "H," effective the pay period ending **April 8, 2005**, unless otherwise noted.

18. **ITEM V-E-2: EMPLOYEES ELIGIBLE FOR REGULAR STATUS**

The following employees were classified as regular employees of the Board, with all rights and privileges thereof, effective **May 1, 2005**, unless otherwise noted:

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Employee Name	Employment Date	Retirement Plan Participation Date Unless otherwise noted^	Division/Section
Aaron Mitchell	10/05/2004	10/05/2004	T&D Construction & Maintenance #710
Eddie Crumley	10/25/2004	10/25/2004	Buildings Maintenance #870
Antonio Hernandez	04/05/2004	04/05/2004	Buildings Maintenance #870
Jeremy Trujillo	08/16/2004	08/16/2004	Buildings Maintenance #870

19. **ITEM V-E-3: PROJECT EMPLOYEE CONTRACT**

The following Project Employee Contract was approved:

Employee Name, ID# Title, Salary, Std Hrs.	Estimated Completion Date	Estimated Annual Salary	Division/Section, Project
Sami Balestri IT Application Developer III \$4,657.00/Mo. – IT-06, Step 1 Full-Time Status, 40 Standard Hours	2 Years	\$55,884	Information Technology #160

20. **ITEM V-E-4: PERSONNEL POLICIES REVISIONS**

Authorized revisions to the Personnel Policies at Sections 8-4, 11-2-(1), 14-4-(1), 14-10-(8) and 14-19, effective April 13, 2005, all as more particularly described in the attachment to Agenda Item V-E-4 dated April 13, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "I."

21. **ITEM VI-B-1: DISCUSSION AND INFORMATION: LEGISLATIVE MATTERS**

Mr. Barry provided an update regarding House Bill 1296, which the Board and numerous other water suppliers oppose.

22. **ITEM VI-B-2: DISCUSSION AND INFORMATION: FINAL AGREEMENT ON USES FOR MOFFAT TUNNEL FUNDS**

The Board received a report showing the projects jointly approved and completed and those underway by the Department of Parks and Recreation utilizing money held by the City from the Board's purchase of the Moffat

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Tunnel, a copy of which is attached to and incorporated in these Minutes as Exhibit "J."

23. **ITEM VI-C-1: DISCUSSION AND INFORMATION: SNOWPACK REPORT**

Mr. Waage provided the Commissioners and the public with a copy of the Water Supply Update dated April 13, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "K."

Mr. Waage reported the weekend blizzard was heaviest in the Denver Water service area and did not extend into the mountain watersheds. April 1 snow pack, which does not include any influence from the April 10 snowstorm indicated that the statewide snow pack was 107% of average. Significantly more snow has fallen in the southern portion of the state than in the main stem of the Upper Colorado or the South Platte River basins. The snow pack in the South Platte watershed above Denver Water's storage facilities is 78% of average and in the Colorado River watershed upstream of Denver Water's facilities, it is 81% of average. The current August 1 projection is that with normal runoff, Denver Water's reservoirs would be 93% of full. Mr. Waage noted that precipitation in the metro area is approximately normal for this time of year.

24. **ITEM VI-C-2: DISCUSSION AND INFORMATION: SUMMER PROGRAM – PRELIMINARY OUTLINE**

Mr. Fisher provided the 2005 Summer Watering Program options to the Commissioners and the public. A copy of the program is attached to and incorporated in these Minutes as Exhibit "L." Mr. Fisher explained that a continuing rule which will be enforced in Denver Water's service area and across the metropolitan area by other water utilities will be that between May 1 and September 1 there will be no watering between 10 a.m. and 6 p.m. Denver Water staff is moving forward to put information regarding best management practices for irrigation use on the Denver Water website, and will be providing publicity in the way of postcards, bill inserts and community awareness programs regarding the need to conserve water. The suggested options for the summer watering program with selected target dates of May 1 and June 1 were discussed. Mr. Barry reported the City of Aurora has announced that beginning May 1 it will limit outdoor watering to three days per week with no time limitations. Colorado Springs has also indicated that its

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water restriction program will be initiated April 15 and will also limit outdoor watering to three days per week. The Board discussed the feasibility of providing real-time information to Denver Water customers regarding water usage. Ms. Bassett explained that in 2004 Denver Water undertook a trial program with 50 customers having devices available to them to monitor their water usage on a daily basis. The water usage of those customers did not vary significantly from the control group. Staff will continue to work to provide timely information to Denver Water customers regarding daily usage, and will report back to the Commissioners regarding their findings and suggestions.

25. **ITEM VI-E-1: DISCUSSION AND INFORMATION: LETTER FROM DISTRIBUTOR COMMITTEE**

Pat Fitzgerald asked if a representative group of the distributors could meet with the Commissioners prior to a Study Session. Mr. Fitzgerald congratulated the staff and the Board for the vigorous defense of the DeLine lawsuit.

26. **ITEM VI-F-1: DISCUSSION AND INFORMATION: STATUS OF THE INVESTMENT PORTFOLIO**

The Commissioners received the report, "Denver Water Investment Portfolio March 31, 2005" as set forth in Agenda Item VI-F-1 dated April 13, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "M."

27. **ITEM VI-F-2: DISCUSSION AND INFORMATION: MANAGER'S OPERATION REPORT**

The Board was furnished with the Manager's Operation Report dated April 13, 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "N," which consists of the following individual items:

1. Water Use and Supply Reports
2. Status of Contract Work
3. Status of Consultant Services

28. **ITEM V-F-4: NEW CONTRACT SUMMARY**

The Board received the Summary of New Contracts Between \$10,000 and \$40,000 for the first quarter of 2005, a copy of which is attached to and incorporated in these Minutes as Exhibit "O."

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29. **ITEM VI-G-1: SCHEDULING OF FUTURE BOARD MEETINGS**

The Board determined that a Study Session will take place on **Wednesday, April 20, 2005**, at **9:30 a.m.** in the Three Stone Buildings. The Agenda includes an update of the 2005 Budget and the Ten-Year Capital Plan and review of the process for rate design.

The First meeting in May will be **Wednesday May 11, 2005** at **9:15 a.m.** in the Board Room, Room 309, 1600 West 12<sup>th</sup> Avenue, Denver Colorado.

Commissioner Roberts noted that commissioner Gougeon had arrived during the information portion of the meeting and asked that the Board take up consideration of Agenda Item V-C-1.

30. **ITEM V-C-1: RESOLUTION TO UPDATE MANAGER'S SPENDING AUTHORITY**

Commissioner Beardsley reiterated the concept which he had advanced in earlier meetings that the Board should be primarily concerned with matters involving governance and not contract administration. Commissioner Beardsley cautioned that flexibility of contract change orders and amendments could overlook the original benefits of a project with regard to budget management. Commissioner Beardsley opined that re-bidding contracts when they reach their term would be beneficial to Denver Water.

Following extended discussion between Commissioners and staff, the Commissioners asked that the proposed resolution, a copy of which is attached to and incorporated in these Minutes as Exhibit "P," be modified in Section 2.c to delete the reference to the 12 month period; in paragraph 4 to include reference to ratification of emergency action at the Board's next regular meeting; to maintain the amendment and change order for contracts previously approved by the Board at \$40,000.00, as provided in paragraphs 6a and c, and to reiterate in Paragraph 8 that the Manager retains full responsibility for those matters which he has delegated to staff.

The Board then unanimously approved the modified Resolution, a copy of which is attached to and incorporated in these Minutes as Exhibit "Q."

No further business appearing, the Board voted unanimously to adjourn into Executive Session at 11:58 a.m.

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#### **EXECUTIVE SESSION**

On Wednesday, April 13, 2005, 2005, commencing approximately at 12:05 p.m. in the Manager's Office, located in the Administration Building, 1600 West 12th Avenue, Denver, Colorado, the Board of Water Commissioners met in Executive Session. The following matters which are authorized by C.R.S. § 24-6-402 or D.R.M.C. § 2-34 were discussed during the Executive Session:

1. Property Report § 24-6-402(4)(a)
2. Litigation Report § 24-6-402(4)(b)
3. Contract Negotiations § 24-6-402(4)(e)

There being nothing further for the Board to consider, the Executive Session concluded at 12:40 p.m.

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President

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Secretary